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Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108

Advisory Opinion

May 15, 2002
AO-02-19

Maureen A. MacFarlane, Legal Counsel
Cambridge Public Schools
159 Thorndike Street
Cambridge, MA 02141

RE: Political activities of public school teachers during school hours

Dear Ms. MacFarlane:

This letter is in response to your request for an advisory opinion received on March 1, 2002. You have asked a number of questions concerning the application of M.G.L. Chapter 55, the campaign finance law, to the political activities of public school teachers during school hours.

Although some of your questions will be answered below, I have not attempted to answer each specific question in the form and order you have presented them, choosing instead to address the larger issues and to allow my answers to your individual questions to be addressed, in general, in the resulting discussion.

M.G.L. Chapter 55 governs the regulation of campaign finance activity in Massachusetts, which includes the use of government resources for political purposes. In Anderson v. City of Boston, 376 Mass. 178 (1978), appeal dismissed, 439 U.S. 1069 (1979), the Supreme Judicial Court looked to the provisions of M.G.L. c.55 in addressing the question of whether municipalities can raise or spend funds for the purpose of influencing the results of a referendum question. The Court stated that M.G.L. c.55 bars municipalities from making such expenditures since the statute “demonstrate[s] a general legislative intent to keep political fund raising and disbursing out of the hands of nonelective public employees and out of city and town halls.” Id. at 186-187.

In Anderson, the court stated that chapter 55 was enacted to regulate “*election*” financing. Id. at 185 (emphasis added). Therefore, the prohibition on the use of governmental resources for political purposes applies to those expenditures *made to promote or oppose ballot questions or candidates*, not expenditures made for the purpose of influencing the debate of a policy issue in a public forum or for other political activities that are not intended to influence voters. See IB-91-01 (A copy is enclosed for your information). Accordingly, the campaign finance law does not prohibit public resources, such as

staff time, from being used to lobby a legislative body (See AO-89-26) or to influence debate in an open forum such as a town meeting (See AO-93-07). Therefore, oral or written statements made by a public school teacher, or students, for the primary purpose of lobbying the legislature for a particular course of legislative action would not be regulated by the campaign finance law.

In addition, teachers may distribute information that relates to the lobbying project to their students during school hours. As discussed in the enclosed interpretive bulletin, teachers may not, however, use governmental resources to distribute information that advocates a particular vote on a ballot question to the students or the students' parents or guardians via the students. Governmental resources may not be used by any person, whether public employee or private citizen, to distribute material to voters to promote or oppose a ballot question. Also, such resources may not be used to distribute even "objective" or neutral informational material regarding ballot questions without specific legislative authority. Although the City of Cambridge has specific legislative authority to distribute informational material regarding a ballot question to voters (ch. 630 of the Acts of 1989), this authority does not extend to the distribution of materials concerning state ballot questions or to the distribution of such materials by the Cambridge public school system. See IB-91-01.

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55. Some of the activities described in your letter may raise issues outside the campaign finance law, including but not limited to M.G.L. c.3, which regulates the activities involved in lobbying the state legislature. Please contact the Secretary of the Commonwealth's Division of Public Records (617-727-2832) for more information on those laws.

Please do not hesitate to contact this office should you have additional questions.

Sincerely,

A handwritten signature in cursive script, reading "Michael J. Sullivan", followed by a vertical line.

Michael J. Sullivan
Director

MJS:td
Enclosure (IB-91-01)